Civil Misc. App. No.662/1994
Gurpreet Kaur (since deceased through L/r) & Anr.
Versus Pritpal Singh & Ors.

Date of Order ::: 12/07/06

Hon'ble Mr. Justice Ajay Rastogi

Mr. Rakesh Bhargava, for appellant (claimant)
Mr. Prashant Sharma for Mr.Alok Sharma, for respondent

Instant appeal has been filed for enhancement of compensation of Rs.1.95 lacs awarded by Motor Accident Claims Tribunal, Jaipur vide Award dt.31/01/94 in MACT case No.188/92.

Appellants are claimants - wife & minor daughter of deceased Gurusagar Singh aged 32 years, who died in motor accident on 06/06/91. Pendente appeal, widow died and minor daughter is now under guardian of her maternal grand father. As alleged in claim petition, deceased was a truck driver. After taking note of material on record, Tribunal assessed his monthly income as Rs.1,800/- and after deduction of Rs.800/- towards his personal expenses, determined Rs.1,000/- as monthly loss of income and dependency to the claimants and with the aid of multiplier of 15, awarded total compensation of Rs.1,95,000/- (including Rs.15,000/- to wife & minor daughter towards love & affection) along with 12% per annum from the date of claim petition. Hence this appeal.

Counsel for appellants submits that ordinarily deduction of 1/3rd towards personal expenses is made but while computing compensation towards dependency to the family of deceased, deduction made of Rs.800/- is on higher side and similarly, at the time of accident, age of deceased was 32 years and ordinarily multiplier as per amendment of Schedule appended to Motor Vehicle Act

in 1994, would have been of 18 instead of 15 as adopted by Tribunal but no justification has come forward in the finding recorded by Tribunal for adopting multiplier of 15 while awarding compensation to claimants under Award impugned and to this extent and on count of excess deduction than 1/3rd towards personal expenses, finding recorded by Tribunal being erroneous in law requires enhancement by this Court.

On the other hand, Counsel for respondents supported impugned finding and contends that keeping in view age of claimants and the deceased, what has been finally awarded by Tribunal while adopting multiplier of 15 being just & adequate, does not require interference by this Court.

I have considered contentions of Counsel for parties and with their assistance, examined material on record. The deceased was a truck driver and was 32 years of age at the time of accident on 06/06/91. After taking note of totality of facts brought on record, Tribunal assessed monthly income of Rs.1,800/-. Ordinarily 1/3rd deduction towards personal expenses is made but no justification has come forward and recorded by Tribunal in deducting more than 1/3rd for personal expenses while computing dependency to the family of deceased and as per calculation 1/3rd of monthly income assessed by Tribunal comes to Rs.600/-. It is true that prior to amendment made in1994 there was no schedule for adopting multiplier but this standard formula for computation is for just compensation, in my opinion as per Schedule appended to the Act vide amendment in 1994, 18 as provided would have been an appropriate multiplier for just compensation. In such circumstances, claimants are entitled for

compensation towards dependency to a sum of Rs.2,59,200/-(1200x12x18) and as regards quantum of compensation towards love & affection to children besides consortium to claimant wife, in all Rs.15,000/- has been awarded by the Tribunal, which in instant case is just and reasonable and requires no interference by this Court.

Consequently, this appeal is allowed and the claimants are entitled for enhanced compensation for a sum of Rs.79,200/- (Rs.2,74,200/- (-) Rs.1,95,000/- awarded by Tribunal), which shall also carry interest @ 6% p.a., from the date of filing of claim application till its actual payment. Enhanced compensation with interest shall be deposited by Insurance Company through A/c payee bank draft/pay order before the Tribunal within two months.

The Tribunal is further directed to deposit the enhanced compensation in FDR for six years in Nationalised Bank in name of claimant Kumari Gurbani, (daughter of deceased) who will be entitled to receive monthly interest on FDR supra as well as full amount of FDR on its maturity.

It is made clear that premature encashment shall be permitted in respect of fixed deposits, only on an application being made to the Tribunal and on it being satisfied about urgency of any need to old aged parents and absence of financial resources to meet any urgent financial need, Tribunal may permit loan or advance or premature encashment by a reasoned order. To the above extent, impugned Award stands modified. No order as to costs. Record, if received, be returned back forthwith.

(Ajay Rastogi), J.

K.Khatri/662CMA1994